



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 1
PART II—Section 1

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 49] नई दिल्ली, बुधवार, मई 31, 1984/ज्येष्ठ 10, 1906
No 49] NEW DELHI, THURSDAY, MAY 31, 1984/JYAISTHA 10, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (Legislative Department)

New Delhi, the 31st May, 1984/Jyaistha 10, 1906 (Saka)

The following Act of Parliament received the assent of the President on the 27th May, 1984, and is hereby published for general information:—

THE MERCHANT SHIPPING (AMENDMENT) ACT, 1984

No. 41 of 1984

[27th May, 1984.]

An Act further to amend the Merchant Shipping Act, 1958.

Be it enacted by Parliament in the Thirty-fifth Year of the Republic of India as follows:—

1. (1) This Act may be called the Merchant Shipping (Amendment) Act, 1984.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 3 of the Merchant Shipping Act, 1958 (hereinafter referred to as the principal Act), after clause (11), the following clause shall be inserted, namely:—

“(11A) “family” means,—

(i) in the case of male, his wife, his children, whether married or unmarried, his dependent parents and his deceased son's widow and children;

Short
title and
commence-
ment.

Amend-
ment of
section 3.

Provided that if a person proves that his wife has ceased under the personal law governing him or the customary law of the community to which the spouses belong, to be entitled to maintenance she shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently intimates by express notice, in writing, to the Central Government that she shall continue to be so regarded; and

(ii) in the case of female, her husband, her children, whether married or unmarried, her dependent parents, her husband's dependent parents and her deceased son's widow and children:

Provided that if a person by notice in writing to the Central Government expresses her desire to exclude her husband from the family, the husband and his dependent parents shall no longer be deemed to be a part of such person's family for the purpose of this Act, unless such person subsequently cancels in writing any such notice.

Explanation.—In either of the above two cases, if the child, or, as the case may be, the child of a deceased son, of a person has been adopted by another person and if under the personal law of the adopter adoption is legally recognised, such a child shall be considered as excluded from the family of the first mentioned person.

Amend-
ment of
section 24.

3. In section 24 of the principal Act, the following proviso shall be inserted at the end, namely:—

“Provided that subject to such order as the Central Government may issue in this behalf, when the office of registrar of Indian ships at any port is vacant or the holder of such office is on leave or is not available, for any reason, at the port to exercise and discharge the powers, duties and functions of the office, the seniormost surveyor at that port may act as, and exercise and discharge the powers, duties and functions of, the registrar of Indian ships at that port.”

Amend-
ment of
section
101.

4. In sub-section (1) of section 101 of the principal Act, for the words “signed by the master”, the words “signed by the owner or agent and the master” shall be substituted.

Substitu-
tion of
new
section
for sec-
tion 102.

5. For section 102 of the principal Act, the following section shall be substituted, namely:—

Engage-
ment of
seaman
where
agree-
ment is
made
out of
India.

“102. Notwithstanding anything contained in any other provision of this Act, the master of a ship registered at a port outside India who has an agreement with the crew made in due form according to the law of that port or of the port in which her crew were engaged, may engage in any port in India—

(a) a seaman who is not a citizen of India and who holds a continuous discharge certificate or any other similar document

of identity issued by the competent authority of the country in which the ship is registered or, as the case may be, of the country in which the said agreement was made; or

(b) a seaman who is a citizen of India and who holds a certificate of discharge or a continuous certificate of discharge issued under this Act,

and any seaman so engaged under clause (a) or clause (b) may sign the agreement aforesaid and it shall not be necessary for him to sign an agreement under this Act.”.

6. In the principal Act, section 105 shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amend-
ment of
section
105.

“(2) A copy of the statement referred to in sub-section (1) shall also be sent to the seamen’s employment office concerned.”.

7. In section 108 of the principal Act, for the portion beginning with the words “unless proved to have been made” and ending with the words “if made out of India”, the following shall be substituted, namely:—

Amend-
ment of
section
108.

“unless proved to have been made with the consent of all the persons interested in the erasure, interlineation or alteration by the written attestation,—

(a) if in India, of some shipping master or customs collector; or

(b) if outside India, by an Indian consular officer or at any port outside India at which no Indian consular officer is available, any such person as is authorised in this behalf by the Central Government by notification in the Official Gazette”.

8. After section 130 of the principal Act, the following section shall be inserted, namely:—

Insertion
of new
section
130A.

“130A. Subject to the provisions of section 160 and to such restrictions and conditions as may be prescribed, any amount deposited with or recovered by the shipping master for making payment in accordance with the allotment note made by a seaman or for being paid to a seaman or his nominee may, if such amount remains unclaimed with the shipping master for a period of not less than six years, be utilised for the welfare of seamen in such manner as the Central Government may direct.”.

Certain un-
disbursed
amounts
to be uti-
lised for
welfare of
seamen.

9. In section 132 of the principal Act, in clause (a) of sub-section (1), for the words “three hundred rupees”, the words “three thousand rupees” shall be substituted.

Amend-
ment of
section
132.

10. In section 137 of the principal Act, in sub-section (1), for the words “one month from the date of the agreement” the words “one month from the date on which the seaman’s right to wages begins” shall be substituted.

Amend-
ment of
section
137.

Amend-
ment of
section 141.

11. In section 141 of the principal Act, in sub-section (3), for the words "to his legal heirs", the words "to the person nominated by him in this behalf under section 159A or if he has not made any such nomination or the nomination made by him is or has become void, to his legal heirs" shall be substituted.

Amend-
ment of
section 159.

12. In section 159 of the principal Act,—

(a) in the opening portion, for the words "such sums as he thinks proper to allow, may—", the words, figures and letter "such sums as he thinks proper to allow, shall pay and deliver the residue to the person nominated by the seaman or apprentice in this behalf under section 159A and if he has not made any such nomination or the nomination made by him is or has become void, the shipping master may—" shall be substituted;

(b) in clause (b), after the words and figures "the Indian Succession Act, 1925", the words and figures "or a certificate under section 29 of the Administrators-General Act, 1963" shall be inserted.

39 of 1925.

45 of 1963.

Insertion
of new
section
159A.

13. After section 159 of the principal Act, the following section shall be inserted, namely:—

Nomina-
tion.

"159A. (1) A seaman may, for the purposes of sub-section (3) of section 141 and clause (b) of section 159 and an apprentice may, for the purposes of clause (b) of section 159, nominate any person or persons:

Provided that if the seaman or the apprentice has a family, he may nominate for the purposes aforesaid any one or more members of his family only and if a seaman or an apprentice acquires a family after he has made any such nomination, the nomination shall become void.

(2) The form in which any nomination may be made under sub-section (1), the cancellation or variation of any such nomination (including the making of a fresh nomination) and all other matters connected with such nominations shall be such as may be prescribed."

Amend-
ment of
section,
160.

14. In section 160 of the principal Act, in sub-section (2), after the proviso, the following proviso shall be inserted, namely:—

"Provided further that if, before the expiration of six years after the proceeds of the sale have been so paid, no claim is made thereto the amount or any part thereof may be utilised for the welfare of seamen in such manner as the Central Government may direct."

Insertion
of new
section
177A.

15. After section 177 of the principal Act, the following section shall be inserted, namely:—

Power to
make
rules to
prevent
accidents,
etc.

"177A. (1) The Central Government may, having regard to the provisions of the Convention concerning the Prevention of Occupational Accidents to Seafarers adopted by the General Conference of the International Labour Organisation on the 30th day of October 1970, make rules so as to ensure safe working conditions for Indian ships and for preventing accidents and different rules may be made

for different classes of ships and for ships of the same class in different circumstances.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which any equipment or gear may be maintained, inspected or tested and conditions as to such maintenance, inspection and testing;

(b) the manner in which the use of any material or process shall be regulated for the manufacture of any such equipment or gear;

(c) the provision of safe means of access to such equipment or gear for the use of seamen and provision of protective clothing for seamen where necessary;

(d) restriction on the hours of employment of seamen in any specified operation or under any specified circumstances; and

(e) the manner and form in which and the persons to whom any accident occurring on board a ship shall be reported.”

16. In section 194 of the principal Act, in clause (d), for the words “officer of the ship”, the words “officer of, or a seaman or an apprentice belonging to, the ship” shall be substituted.

Amendment of section 194.

17. To section 204 of the principal Act, the following proviso shall be added, namely:—

“Provided that the provisions of this section shall not extend to the case in which the harbour or secreting is by the spouse of the seaman or apprentice.”

Amendment of section 204.

18. In section 299A of the principal Act, in sub-section (1),—

(a) in the opening portion, the words “of five hundred tons gross or more” shall be omitted;

(b) in clause (a), for the words “if the ship performs international voyages”, the words “if the ship is of five hundred tons gross or more and performs international voyages” shall be substituted.

Amendment of section 299A.

19. In the principal Act, section 365 shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Subject to any rules made in this behalf by the Central Government, the court making an investigation or inquiry under this Part may, if it thinks fit, order the payment, on the part of that Government of the reasonable expenses of any witness attending for the purposes of such investigation or inquiry before such court.”

Amendment of section 365.

20. In section 402 of the principal Act, in sub-section (3),—

(a) after the words “Indian Navy”, the words “or of the Coast Guard” shall be inserted;

(b) the following Explanation shall be inserted at the end, namely:—

Amendment of section 402.

‘Explanation.—“Coast Guard” means the Coast Guard constituted under section 3 of the Coast Guard Act, 1978.’

Insertion
of new
sections
434A and
434B.

Insurance
of mem-
bers of
crew of
a sailing
vessel.

21. After section 434 of the principal Act, the following sections shall be inserted, namely:—

“434A. (1) Subject to the other provisions of this section and the scheme framed under sub-section (3), the owner of every sailing vessel shall take and keep in force, in accordance with the provisions of the said scheme, a policy of insurance whereby all the members of the crew of such vessel are insured against death or personal injury caused by accident in the course of employment as such members.

(2) It shall be the responsibility of the owner of every sailing vessel to bear the expenses incidental to the taking of the policy of insurance referred to in sub-section (1) and to pay the premiums for keeping it in force:

Provided that the maximum amount which the owner of the sailing vessel shall be liable to pay by way of premiums per year shall not exceed—

(a) where the number of members of the crew is not more than ten, one hundred and fifty rupees;

(b) where the number of members of the crew is more than ten, a sum calculated at the rate of fifteen rupees for each member of the crew.

(3) The Central Government may, by notification in the Official Gazette, frame a scheme providing for the insurance of all persons employed as members of the crew of sailing vessels against death or personal injury caused by accident arising in the course of their employment as such members.

(4) Without prejudice to the generality of the provisions of sub-section (3), a scheme framed under that sub-section may provide for—

(a) the amount which should be payable in the case of personal injury resulting in the death of a member of the crew of a sailing vessel due to accident and in the case of other injuries:

Provided that different amounts may be provided in respect of different personal injuries not resulting in death;

(b) the procedure for payment of such amounts; and

(c) all other matters necessary for giving effect to the scheme.

(5) Where, under the provisions of any other law for the time being in force, compensation is payable in respect of death or personal injury sustained by a member of the crew of a sailing vessel as a result of an accident in the course of his employment as such member, then if the amount payable in respect of such death or personal injury is accordance with the scheme framed under this section,—

(a) is equal to, or more than, the compensation payable under such other law, no compensation shall be payable under such other law;

(b) is less than the compensation payable under such other law, the compensation payable under such other law shall be reduced by the said amount.

(6) Every scheme framed by the Central Government under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

434B. (1) No sailing vessel shall ply or proceed to sea unless there is in force in respect of the members of the crew of the vessel a policy of insurance complying with the requirements of section 434A and the scheme framed thereunder.

Policy of insurance.

(2) No customs collector shall grant a port clearance to a sailing vessel until after production by the owner of such a policy of insurance.”.

22. In section 436 of the principal Act, in the Table, the existing serial number 137 shall be re-numbered as serial number 136A, and after serial number 136A as so re-numbered, the following serial number and the entries relating thereto shall be inserted, namely:—

Amendment of section 436.

1	2	3	4
“137	If the owner fails to comply with sub-section (1) of section 434A	434A(1)	Imprisonment which may extend to six months, or fine which may extend to five thousand rupees, or both.”.

R. V. S. PERI SASTRI,
Secy. to the Govt. of India.

